

H.J. RES. 106, THE MARRIAGE PROTECTION AMENDMENT

- *Procedural background:* introduced by Rep. Marilyn Musgrave (R-CO) on September 23, 2004, and has no cosponsors. Rep. Musgrave's prior amendment, H.J. Res. 56, has 129 cosponsors.
- *Effect:* the amendment goes beyond prohibiting same sex couples from being married. By referring to "legal incidents thereof," it also would prohibit individuals unmarried relationships from deriving the legal benefits of marriage, such as hospital visiting privileges, death benefits, life insurance benefits, etc.
- *The amendment is discriminatory:* this would be the first constitutional amendment to discriminate against people. It specifically targets same sex couples by preventing them from getting married. As such, it would contradict the constitutional right of equal protection.
- *The amendment cannot pass Congress:* the Senate already has rejected an amendment to ban same sex marriage by a vote of 48-50 (cloture vote). It is unlikely to achieve the 290 votes in needs to pass in the House.
- *The amendment is merely political:* the President and congressional Republicans are moving the legislation even though it cannot pass because they want to energize conservative voters.
- *The amendment intrudes upon states' rights:* the Constitution does not give Congress the power to regulate marriage or other family issues, indicating they were to be left to the states.